

### § 60-1.33

harassment, intimidation, threats, coercion or discrimination. The sanctions and penalties contained in this part may be exercised by OFCCP against any contractor, subcontractor or applicant who violates this obligation.

[62 FR 44192, Aug. 19, 1997]

### § 60-1.33 Conciliation agreements.

(a) If a compliance review, complaint investigation or other review by OFCCP or its representative indicates a material violation of the equal opportunity clause, and (1) if the contractor, subcontractor or bidder is willing to correct the violations and/or deficiencies, and (2) if OFCCP or its representative determines that settlement (rather than referral for consideration of formal enforcement) is appropriate, a written agreement shall be required. The agreement shall provide for such remedial action as may be necessary to correct the violations and/or deficiencies noted, including, where appropriate (but not necessarily limited to), remedies such as back pay and retroactive seniority.

(b) The term "conciliation agreement" does not include "letters of commitment" which are appropriate for resolving minor technical deficiencies.

(E.O. 11246 (30 FR 12319) as amended by E.O. 11375 and 12086)

[44 FR 77002, Dec. 28, 1979]

### § 60-1.34 Violation of a conciliation agreement or letter of commitment.

(a) When a conciliation agreement has been violated, the following procedures are applicable:

(1) A written notice shall be sent to the contractor setting forth the violations alleged and summarizing the supporting evidence. The contractor shall have 15 days from receipt of the notice to respond, except in those cases in which such a delay would result in irreparable injury to the employment rights of affected employees or applicants.

(2) During the 15-day period the contractor may demonstrate in writing that it has not violated its commitments.

(3) If the contractor is unable to demonstrate that it has not violated its

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commitments, or if the complaint alleges irreparable injury, enforcement proceedings may be initiated immediately without issuing a show cause notice or proceeding through any other requirement contained in this chapter.

(4) In any proceeding involving an alleged violation of a conciliation agreement OFCCP may seek enforcement of the agreement itself and shall not be required to present proof of the underlying violations resolved by the agreement.

(b) If the contractor has violated a letter of commitment, the matter shall be handled, where appropriate, pursuant to 41 CFR 60-2.2(c) or 60-4.8. The violation may be corrected through a conciliation agreement, or an enforcement proceeding may be initiated.

(E.O. 11246 (30 FR 12319) as amended by EO 11375 and 12086)

[44 FR 77002, Dec. 28, 1979, as amended at 62 FR 44192, Aug. 19, 1997]

## Subpart C—Ancillary Matters

### § 60-1.40 Affirmative action programs.

(a)(1) Each nonconstruction (supply and service) contractor must develop and maintain a written affirmative action program for each of its establishments, if it has 50 or more employees and:

(i) Has a contract of \$50,000 or more; or

(ii) Has Government bills of lading which in any 12-month period, total or can reasonably be expected to total \$50,000 or more; or

(iii) Serves as a depository of Government funds in any amount; or

(iv) Is a financial institution which is an issuing and paying agent for U.S. savings bonds and savings notes in any amount.

(2) Each contractor and subcontractor must require each nonconstruction subcontractor to develop and maintain a written affirmative action program for each of its establishments if it has 50 or more employees and:

(i) Has a subcontract of \$50,000 or more; or

(ii) Has Government bills of lading which in any 12-month period, total or can reasonably be expected to total \$50,000 or more; or